

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

RESPONSE TO OFFICE ACTION

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Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir.

30 In response to the outstanding non-final Office Action dated January 24, 2007, Applicant submits the following remarks. Applicant previously submitted a Memorandum in Support of Pre-Appeal Brief Request for Review dated April 16, 2007. In a Notice of Panel Decision from Pre-Appeal Brief Review dated April 30, 2007, and an Advisory Action dated May 1, 2007, the Pre-Appeal Brief Request was rejected as 35 being premature since the claims were not twice rejected. Applicant notes, however, that the USPTO Notice dated 12 July 2005 regarding the Pre-Appeal Brief Program notes that, “under the current practice every applicant whose claims have been twice rejected may appeal the Examiner’s decision to the Board of Patent Appeals and Interferences” and that “any applicant who has filed a notice of appeal” may use the Pre-Appeal 40 Program. Regarding the filing of a Notice of Appeal, Chapter 1204 of the MPEP notes that, “if any claim was rejected in a parent application, and the claim is again rejected in a

continuing application, then applicant can choose to file an appeal in the continuing application, even if the claim was rejected only once in the continuing application.” Applicant notes that the claims of the present application were previously rejected in a parent application (United States Patent Application No. 09/782,144). Thus, while
5 Applicant maintains that the cited Pre-Appeal was not pre-mature, Applicant is submitting this Response to Office Action to expedite prosecution of the application.